

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA

DEANDRE HARRIS	:	Case No. 3:19-CV-46
Plaintiff	:	Judge MOON
:		
-v-		
JASON KESSLER ET AL.	:	
:		
Defendants		

MOTION TO DISMISS PLAINTIFF'S COMPLAINT FRCP 12(b)(6)

Defendants Traditionalist Workers Party (hereafter "TWP") and Matt Parrott move the Court, pursuant to FRCP 12(b)(6), to dismiss each of the Plaintiff's claims against them for the reasons that follow:

A. FRCP 12(b)(6) Standard

In *Bell Atlantic Corp. v. Twombly*, the Supreme Court announced the current pleading standard in federal court. 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007). *Twombly* required that a plaintiff's allegations must be sufficient "to raise a right to relief above the speculative level," id. at 555, and plead facts which "allow... the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." id. at 556.

A plaintiff must state sufficient facts to "nudge" his claims "across the line from

conceivable to plausible." *Ashcroft v. Iqbal*, 556 U.S. 662, 680. Nevertheless, a plaintiff still need only state a "short and plain statement of the claim showing that the pleader is entitled to relief". Fed. R. Civ. P. 8(a)(2).

The Fourth Circuit has routinely applied the required standard. *Woods v. City of Greensboro*, 855 F. 3d 639, 647 (4th Cir. 2017), *Thomas v. The Salvation Army Southern Territory*, 841 F. 3d 632, 639 (4th Cir. 2016).

B. The Plaintiff's Complaint fails to state a claim against TWP or Matt Parrott

1. 42 USC 1986 claim is time barred

42 USC §1986 has an express one year statute of limitations, providing that "no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued." Plaintiff alleges he suffered personal injury on August 12, 2017. He did not file his Complaint, however, until August 12, 2019.

As such Plaintiff's §1986 claim is time barred and must be dismissed with prejudice.

2. Remainder of the Complaint fails to implicate TWP or Parrott

Plaintiff's Complaint is remarkable for the fact that it signally fails to make a single factual allegation against either Matt Parrott or the TWP. Plaintiff even fails to allege any racial animus against Parrott or TWP¹ even though they allege racial animus against several other defendants.²

The Complaint, literally, contains no factual allegations against TWP or Parrott whatsoever. The closest Plaintiff comes is ¶43 where Plaintiff alleges that "The vision espoused by Kessler and Spencer involved uniting these various racist groups in an effort to

¹ ¶ 19 identifying Parrott only as founder of "Traditional Youth Network" and ¶20 identifying TWP only as a FEC registered corporation or unincorporated association under state law.

² See, *inter alia*, ¶¶ 12, 14, 16, 27, and 33.

intimidate and harass racial, ethnic and religious minorities.”

Setting aside the fact that Plaintiff has not identified Parrott or TWP as “racist groups” anywhere in his Complaint, Plaintiff has also failed to state any fact alleging TWP or Parrott agreed to be so used or agreed with anybody to do anything. In addition, Plaintiff failed to allege, with the specificity required by the Twombly pleading standard, that Parrott or TWP individually engaged in any wrongful conduct.

Plaintiff has failed to plead facts, or even a single fact, that would allow the court to draw any reasonable inference that Parrott or TWP is liable for the Plaintiff’s alleged damages.

Accordingly, all claims against defendants Matthew Parrott (aka “David Matthew Parrott”) and Traditionalist Workers Party must be dismissed.

Respectfully Submitted,

s/ Elmer Woodard
ELMER WOODARD (VSB 27734)
5661 US Hwy 29
Blairs, Va. 24527
(434) 878-3422
isuecrooks@comcast.net
Trial Attorney for Defendants Traditionalist Workers Party and Matthew Parrott

CERTIFICATE OF SERVICE

I hereby certify this Motion to Dismiss was served by the Court's CM/ECF system on January 9, 2021 upon:

All parties of record registered with ECF and non ECF registrants as follows:

Mr. Jeff Schoep
jeffschoep@protonmail.com

s/ Elmer Woodard

E. Woodard (VSB 27734)